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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

In re J.W., a Person Coming Under the Juvenile Court Law.
THE PEOPLE, Plaintiff and Respondent, v. J.W., Defendant and Appellant.

A159699

(Contra Costa County
Super. Ct. No. J1701255)

In this delinquency case, minor J.W. appeals from a dispositional order committing him to the custody of the Youthful Offender Treatment Program (YOTP). Appointed counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), and asks this court to independently review the record and determine if there are arguable issues for appeal. Counsel informed J.W. of his right to file a supplemental brief on his own behalf. No such brief was filed. We have examined the record, find no meritorious issues, and therefore affirm.

I. BACKGROUND

J.W. was adjudged a dependent of the juvenile court in January 2018. (Welf. & Inst. Code, § 300.)¹ Afterwards, J.W. became the subject of a series

¹ Undesignated statutory references are to the Welfare and Institutions Code.

of wardship petitions (§ 602, subd. (a)), including the December 24, 2019 petition at issue here, and notices of probation violations (§ 777, subd. (a)(2)).

The first wardship petition was filed in July 2018, after which then 16-year-old J.W. admitted to carrying a switchblade knife in violation of Penal Code section 21510, subdivision (b). The juvenile court ordered that J.W. remain a dependent (§ 241.1) and placed him on nonwardship probation for six months (§ 725, subd. (a)).

On October 9, 2018, a notice of a probation violation was filed, alleging J.W. had left his group home without permission; had been suspended from school for suspected marijuana use and threatening the vice principal; and had broken into three vehicles. On October 11, another notice of probation violation was filed, alleging among other things that J.W. had stolen items from the vice principal's office. The People filed a supplemental wardship petition that same day, charging J.W. with grand theft of personal property (Pen. Code, § 487, subd. (a)).

In February 2019, the People filed an amended supplemental wardship petition after J.W. reportedly attempted to rob a taxi driver using a BB gun. The petition charged J.W. with grand theft arising from the events in October (Pen. Code, § 487, subd. (a), count one); felony attempted second degree robbery (*id.*, §§ 211, 212.5, subd. (c), 664, count two), with an enhancement for use of a weapon (*id.*, § 12022, subd. (b)); and giving false information to a police officer (*id.*, § 148.9, subd. (a), count three). The court sustained count two and the weapon enhancement, as well as the October 9 probation violation notice. It dismissed counts one and three and the October 11 probation violation notice.

In March 2019, the juvenile court declared wardship and terminated dependency jurisdiction. The court committed J.W. to a nine-month program

at the Orin Allen Youth Rehabilitation Facility (the ranch), with an additional 180-day conditional release/parole period.

J.W. was released from the ranch on November 5, 2019. On December 24, 2019, a wardship petition filed in the Alameda County Superior Court charged J.W. with felony second degree robbery (Pen. Code, § 211, count one), with a special allegation that he committed the robbery against an elder (*id.*, § 667.9, subd. (a)); and felony elder abuse (*id.*, § 368, subd. (b), count two). The charges arose from an incident days earlier when J.W. allegedly followed an elderly man who was walking, threw him to the ground, punched him, searched his pockets, and grabbed his wallet. A notice of probation violation was filed and an arrest warrant was issued on December 27.

On January 6, 2020, the Alameda County juvenile court held a pretrial hearing. J.W. admitted the allegations charged in count two; the court dismissed count one and its accompanying special allegation. The court also ordered the transfer of J.W.'s case to Contra Costa County, finding that J.W.'s legal residence was his mother's home in Contra Costa County and that the transfer was in his best interests, pursuant to rule 5.610 of the California Rules of Court. The Alameda County juvenile court set a transfer-in hearing for January 13, 2020.

The Contra Costa County juvenile court held a transfer-in and warrant hearing on January 15, 2020. The court accepted the transfer; recalled the warrant; dismissed the December 27 notice of probation violation; detained J.W.; ordered that all prior orders shall remain in effect; and set a dispositional hearing.

During the January 29, 2020 dispositional hearing, J.W.'s counsel argued against the probation department's recommendation to commit J.W.

to YOTP, which was in a locked facility, and in favor of recommitting him to the ranch, a less restrictive facility.

The court stated it had considered the probation report and recommendations, the parties' and the probation officer's comments, J.W.'s letter to the court, his age and history, and the circumstances and gravity of the events. The court ordered J.W. shall remain a ward, removed him from his parents' custody, and committed him to YOTP for a maximum of four years, 109 days, or until he reaches age 21, whichever occurs first, with credit for 311 days already served. The court also ordered that J.W. stay away from the victim, whom it found was entitled to restitution which was set at \$0 (§ 730.6, subds. (a)(2)(B), (h)), and comply with standard conditions of probation. The court imposed, but stayed, a restitution fine. (§§ 730.5, 730.6, subds. (a)(2)(A), (b)(1).)

J.W. timely appealed from the "order[] [committing] the minor to the YOTP program at his disposition."

II. DISCUSSION

Following *Wende* guidelines, we have conducted an independent review of the record and find no arguable issues that require briefing on appeal.

Appointed counsel mentions a comment made in a report by the probation department questioning the timeliness of the transfer of J.W.'s case from Alameda County to Contra Costa County. Under California Rules of Court, rule 5.610(f)(1), "the sending court must set a date certain for the transfer-in hearing in the receiving court: within 5 court days of the transfer-out order if the child is in custody." The probation department stated that, although the Alameda County juvenile court had scheduled a timely transfer-in hearing for January 13, 2020, the Contra Costa County juvenile court did not conduct the hearing until January 15, "causing the

rules of the Court to be violated.” We do not find the timeliness issue a meritorious one.

First, J.W. has forfeited any challenge to the timeliness of the transfer-in hearing because he did not object below. (See *In re Carlos B.* (1999) 76 Cal.App.4th 50, 55.) Second, even if the two-day delay of the hearing was error, it was harmless. Nothing in the record suggests the brief delay prejudiced J.W.’s case. The transfer-in hearing and subsequent actions of the receiving court were otherwise valid; it accepted jurisdiction of the case, determined whether J.W. must be further detained, and picked up the case where the transferring court had left off without any delay. (See Cal. Rules of Court, rule 5.612(a), (b) & (c).)

As for the dispositional order, we see no abuse of discretion. J.W. was represented by counsel at all critical stages and was advised of his rights before his admissions were accepted. The juvenile court acted within its discretion in committing J.W. to YOTP and did so after carefully considering J.W.’s arguments in support of a different placement. (See *In re Angela M.* (2003) 111 Cal.App.4th 1392, 1396.) There were acceptable reasons for the court to commit J.W. to YOTP, including his escalating delinquency and the severity of the felony elder abuse offense, despite having successfully completed his first commitment to the ranch. For similar reasons, we find the conditions of J.W.’s probation also appropriate.

III. DISPOSITION

The January 29, 2020 dispositional order is affirmed.

STREETER, J.

WE CONCUR:

POLLAK, P. J.
BROWN, J.